

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

MARTIN FLOOD,

Plaintiff,

v.

BBVA COMPASS, N.A.

Defendants.

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CIVIL ACTION NO. _____

NOTICE OF REMOVAL

PNC Bank, N.A. as successor in interest to BBVA USA f/k/a Compass Bank (“Defendant” or “PNC”), files this Notice of Removal pursuant to diversity jurisdiction under 28 U.S.C. § 1332.

**I.
INTRODUCTION**

1. On February 24, 2022, Plaintiff Martin Flood (“Plaintiff”) filed his Original Petition (“Petition”) in the 60th Judicial District Court of Jefferson County, Texas under Cause No. B-0209370.¹

2. In the Petition, Plaintiff asserts claims against Defendant for violations of Breach of Fiduciary Duty, violations of the Deceptive Trade Practices Act (“DTPA”), Breach of Contract and negligent misrepresentation relating to the denial of a loan. Plaintiff explicitly seeks damages in the amount of at least \$250,000.

3. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, orders, and other papers filed in the state court action and obtained by PNC are attached hereto and marked as **Exhibit A.**

¹ **Exhibit A.** Original Petition.

II.
TIMELINESS OF REMOVAL

4. PNC has not been properly served with this suit. Therefore, this removal is timely.

III.
BASIS FOR REMOVAL: DIVERSITY JURISDICTION

5. This Court has original jurisdiction over this lawsuit pursuant to 28 U.S.C. § 1332 (diversity jurisdiction). The requirements for diversity jurisdiction are met in this case, as Plaintiff and PNC are completely diverse in citizenship and the amount in controversy, exclusive of interests and costs, exceeds \$75,000.00.

A. Complete Diversity Exists.

6. Plaintiff is a citizen of Texas, residing in Jefferson County, Texas.²

7. Defendant is improperly named in the Complaint as BBVA Compass, N.A. “BBVA Compass” was a trade name of Compass Bank, an Alabama state-chartered bank. On June 10, 2019, Compass Bank formally changed its name to BBVA USA. On October 12, 2021, PNC Bank, N.A. completed the acquisition of all the assets and liabilities of BBVA USA. At the time of the filing of the Complaint, PNC Bank, N.A., as successor in interest to BBVA USA f/k/a Compass Bank, is the real party in interest. See 12 U.S.C. §215a(e).

8. PNC is a national bank with its designated main office in Delaware, and as such is a citizen of the state of Delaware. See 28 U.S.C. § 1348 (national banks “shall...be deemed citizens of the States in which they are respectively located.”). See also *Wachovia Bank, N.A. v. Schmidt*, 546 U.S. 303, 307, 126 S.Ct. 941, 945 (2006) (holding the term “located” as used in § 1348 refers to the place designated as a national bank’s main office in its articles of incorporation).

² See Exhibit A, Original Petition at ¶ 2.

9. Because Plaintiff is a citizen of Texas and PNC is a citizen of Delaware, complete diversity of the Parties exists.

B. The Amount in Controversy Exceeds \$75,000.00.

10. In the Original Petition, Plaintiff explicitly seeks relief for damages in an amount exceeding \$250,000 for breach of contract from PNC for denial of the loan. Therefore, based on the value of the relief for damages sought by Plaintiff, the amount in controversy exceeds \$75,000.00 and removal is proper.

V.
VENUE

11. Venue is proper in the Eastern District of Texas, Beaumont Division pursuant to 28 U.S.C. § 1441(a) because Jefferson County, Texas is located within this District and cases arising from Jefferson County, Texas are properly assigned to the Eastern District of Texas.³

VI.
ADDITIONAL REQUIREMENTS

12. Plaintiff has not demanded a jury trial.

13. Written notice of removal will be provided to Plaintiff and filed with the District Clerk of Jefferson County, Texas contemporaneously with this pleading.

Having satisfied the requirements for removal under 28 U.S.C. §§ 1441 and 1332, Defendant PNC Bank, N.A. as successor in interest to BBVA USA f/k/a Compass Bank, gives notice that Cause No. B-0209370, now pending in the 60th Judicial District Court of Jefferson County, Texas, has been removed to this Court.

³ 28 U.S.C. § 124(c)(2).

Respectfully submitted,

Bradley

By: /s/ Melissa Gutierrez Alonso

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that on this 20th day of April, 2022, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. I further certify that a true and correct copy of the foregoing has been served on all counsel of record as follows:

Via email: brandon@themonklawfirm.com

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Attorney for Plaintiff

/s/ Melissa Gutierrez Alonso

Melissa Gutierrez Alonso